

SECOND REGULAR SESSION

HOUSE BILL NO. 2015

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CLAYTON.

Read 1st time February 21, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4722L.011

AN ACT

To repeal section 537.125, RSMo, and to enact in lieu thereof one new section relating to the detention of retail customers.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 537.125, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.125, to read as follows:

537.125. 1. As used in this section:

(1) **"Inventory strip" means any device that is designed to set off or help set off a noise when passed through or by a retail door alarm and that is placed by a retailer on or in any item offered or to be offered for sale by a retailer;**

(2) "Mercantile establishment" means any mercantile place of business in, at or from which goods, wares and merchandise are sold, offered for sale or delivered from and sold at retail or wholesale;

[(2)] (3) "Merchandise" means all goods, wares and merchandise offered for sale or displayed by a merchant;

[(3)] (4) "Merchant" means any corporation, partnership, association or person who is engaged in the business of selling goods, wares and merchandise in a mercantile establishment;

(5) **"Retail door alarm" means any device stationed by the exit of a retail store, designed to sound a noise if an unremoved or nondeactivated inventory strip passes by or through it or any part of it, and intended to stop items not paid for from being removed from the store;**

[(4)] (6) "Wrongful taking" includes stealing of merchandise or money and any other

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 wrongful appropriation of merchandise or money.

18 2. Any merchant, his **or her** agent or employee, who has reasonable grounds or probable
19 cause to believe that a person has committed or is committing a wrongful taking of merchandise
20 or money from a mercantile establishment, may detain such person in a reasonable manner and
21 for a reasonable length of time for the purpose of investigating whether there has been a
22 wrongful taking of such merchandise or money. Any such reasonable detention shall not
23 constitute an unlawful arrest or detention, nor shall it render the merchant, his **or her** agent or
24 employee, criminally or civilly liable to the person so detained; **provided, however, that if any**
25 **consumer who has paid for his or her consumer items is detained by a merchant or the**
26 **merchant's agent or employee because of a retail door alarm sounding when the sounding**
27 **is the result of the store's failure to remove or deactivate an inventory strip on or within**
28 **the purchased items and is not the result of an intent to steal or defraud by the consumer,**
29 **the store that has not removed or deactivated the strip and whose door alarm sounds shall**
30 **refund to the customer the entire payment for all items purchased at that store and listed**
31 **on the same receipt as the items causing the alarm noise.**

32 3. Any person willfully concealing unpurchased merchandise of any mercantile
33 establishment, either on the premises or outside the premises of such establishment, shall be
34 presumed to have so concealed such merchandise with the intention of committing a wrongful
35 taking of such merchandise within the meaning of subsection 1, and the finding of such
36 unpurchased merchandise concealed upon the person or among the belongings of such person
37 shall be evidence of reasonable grounds and probable cause for the detention in a reasonable
38 manner and for a reasonable length of time, of such person by a merchant, his **or her** agent or
39 employee, in order that recovery of such merchandise may be effected, and any such reasonable
40 detention shall not be deemed to be unlawful, nor render such merchant, his **or her** agent or
41 employee criminally or civilly liable.

42 4. Any merchant, his **or her** agent or employee, who has reasonable grounds or probable
43 cause to believe that a person has committed a wrongful taking of property, as defined in this
44 section, and who has detained such person and investigated such wrongful taking, may contact
45 law enforcement officers and instigate criminal proceedings against such person. Any such
46 contact of law enforcement authorities or instigation of a judicial proceeding shall not constitute
47 malicious prosecution, nor shall it render the merchant, his **or her** agent or employee criminally
48 or civilly liable to the person so detained or against whom proceedings are instigated.